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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 10/609,342 | 06/27/2003 | Stephen Drysdale | 60,130-1803;02MRA0221 | 9286 |
| 26096 | 7590 | 12/14/2004 | EXAMINER | |
| CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009 | | | ESTREMSKY, GARY WAYNE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3676 | |

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,342

Applicant(s)

DRYSDALE ET AL.

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-26 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6, 14, 15 and 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 4, 5, 7, 8, 13, 16-18 and 26 is/are rejected.
- 7) ☐ Claim(s) 9-12 and 22-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date hereto.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Election was made **without** traverse in the reply filed on 10/25/04.
Applicant elected claims 1, 4, 5, 7-13, 16-18, and 22-26, cancelled claim 2.
Claims 3, 6, 14, 15, and 19-21 are withdrawn from consideration at this time pursuant to 37 CFR 1.142(b).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 5, 7, 8, 13, 16-18, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,070,923 to Tanimoto.

Tanimoto '923 teaches Applicant's claim limitations including : an "inertia device" - including arm 9 as shown in Fig 9 for example, "forming at least part of a transmission path" - as shown in Fig 8 for example, a "resetting device" - including spring 10.

As regards claim 4, part 9 for example reads on broad limitation of "transmission lever".

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As regards claim 7, part 6' reads on "release lever", and either part 10 or alternatively, the pivotal mounting structure for part 9 reads on broad limitation of "guide structure" since no particular structure is defined in the claim that can be relied upon to patentably distinguish from the well known structure of the prior art.

As regards claim 8, part 9 includes two "projections", one at its lowermost end and another at the end of its left (as shown in Fig 7) edge that read on "projection on the transmission lever" and further discloses a "slot" formed between the housing at (2) and part 12 that reads on "guide structure is a slot that guides movement of the projection (that controls return of the transmission lever to a normal operating position)". The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789.

As regards claim 13, part 9 of the reference has an "abutment" at the lower portion of its right (as shown in Fig 7) portion that partially defines the "notch" which engages part 12 and prevents part 9 from over-rotating as it is returned to operable position by spring 10.

As regards claim 16, the reference discloses a "latch chassis" (19) where it is evident that operation of the handle (as shown in Fig 7) will close the small

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gap and form a mechanical connection between 11 and 12, even after previous activation from a crash situation. The broadly-phrased functional recitation has not defined any specific structure that can be relied upon to patentably distinguish from inherent function of the prior art device. See MPEP 2114. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Allowable Subject Matter

4. Claims 9-12 and 22-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 4,536,021 to Mochida.

U.S. Pat. No. 4,616,682 to Ward.


U.S. Pat. No. 5,253,906 to Rogers.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
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